

**KATHY
HOCHUL**

Governor

**TREMAINE
WRIGHT**

Cannabis
Control Board
Chair

**JESSICA
GARCIA**

Board Member

**REUBEN
MCDANIEL, III**

Board Member

**JEN
METZGER**

Board
Member

**ADAM W.
PERRY**

Board Member

**CHRIS
ALEXANDER**

Executive
Director

Written Procedures Governing the Ability of Cannabis Advisory Board Members to Attend Meetings by Videoconference from Private Locations Under Extraordinary Circumstances in Compliance with Public Officers Law § 103-a

Pursuant to Section 103-a(2)(a) of the Public Officers Law (POL), the Cannabis Advisory Board (Advisory Board), following a public hearing, adopted Resolution # 2022-01 on December 1, 2022, to permit its members to attend meetings by videoconference from a remote location that is not open to in-person physical attendance by the public (private locations) under extraordinary circumstances. POL § 103-a(2)(b) provides that any public body that adopts such a resolution must also establish written procedures governing member and public attendance under extraordinary circumstances. The following procedures are hereby established for such purpose:

1. Advisory Board members shall be physically present at any meeting of the Advisory Board unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes:
 - (a) disability;
 - (b) illness;
 - (c) the hospitalization, death or illness of a relative;
 - (d) caregiving responsibilities;
 - (e) obligations of member's place of employment;
 - (f) public emergency;
 - (g) natural disaster;
 - (h) accident;
 - (i) vehicular malfunction;
 - (j) travel delay;
 - (k) religious observance;
 - (l) adverse weather and/or travel conditions;
 - (m) where the Member is more than three (3) hours away from the nearest location that shall be open to public attendance due to personal or business travel; or
 - (n) any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member shall notify the Chair of the Advisory Board and Executive Director as soon as possible but no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the Advisory Board shall update its notice as soon as practicable to include that information. If it is not practicable for the Advisory Board to update its notice, the Advisory Board may reschedule its meeting.

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4. If there is a quorum of members participating at a physical location(s) open to the public, the Advisory Board may properly convene a meeting. A member who is participating from a private location *shall not* count toward a quorum of the Advisory Board but may participate and vote if there is a quorum of members at a physical location(s) open to the public. Pursuant to Cannabis Law Section 14(6), a majority of the voting Advisory Board members shall constitute a quorum for the purpose of conducting business and a majority vote of all the Advisory Board members in office shall be necessary for action.

5. Except in the case of executive sessions conducted pursuant to POL § 105, the Advisory Board shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.

6. The minutes of the meetings involving videoconferencing from a private location based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used; (ii) where the public can view and/or participate in such meeting; (iii) where required documents and records will be available; and (iv) the physical location(s) for the meeting where the public can attend.

8. The Advisory Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Office of Cannabis Management (OCM) website within five business days following the meeting and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

9. If members of the Advisory Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the public shall be given the opportunity to view the meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Advisory Board shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.

10. Open meetings of the Advisory Board conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law § 292.



Office of Cannabis Management

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11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the Governor pursuant to Executive Law § 28 if the Advisory Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Advisory Board to hold an in-person meeting.

12. These procedures shall be conspicuously posted on the OCM website.